

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

DISCOVER GROWTH FUND, LLC,

Plaintiff,

v.

ANTHONY FIORINO, M.D.; DANIEL KAZADO; DANIEL TEPER, M.D.; JEFFREY PALEY, M.D.; JOHN NECZESNY; THE ESTATE OF GARY H. RABIN; and JOHN DOE 1-10 and JANE DOE 1-10,

Defendants.

Civil Action No. 20-00351

ORDER

CECCHI, District Judge.

This matter comes before the Court by way of a motion to dismiss (ECF No. 10) Plaintiff Discover Growth Fund’s (“Plaintiff”) corrected amended complaint (“CAC”) (ECF No. 5) filed by Defendants Anthony Fiorino, M.D. (“Fiorino”), Daniel Kazado (“Kazado”), Daniel Teper, M.D. (“Teper”), Jeffrey Paley, M.D. (“Paley”), and John Neczesny (“Neczesny”) (collectively, “Defendants”). Plaintiff opposes the motion (ECF No. 13). For the reasons set forth in the accompanying Opinion:

IT IS on this 25th day of January 2021:

ORDERED that the Defendants’ motion to dismiss the CAC is **GRANTED in part** and **DENIED in part**; and it is further

ORDERED that Count VI (Securities Fraud) is **DISMISSED WITHOUT PREJUDICE**; and it is further

ORDERED that the remaining claims in the CAC **MAY PROCEED**.

IT IS SO ORDERED.



CLAIRE C. CECCHI, U.S.D.J.